

Panaji, 30th May, 2008 (Jyaistha 9, 1930)

SERIES II No. 9



# OFFICIAL GAZETTE

## GOVERNMENT OF GOA

### SUPPLEMENT

### No. 2

#### GOVERNMENT OF GOA

Department of Labour

#### Notification

No. 28/18/2007-LAB/19

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa, on 06-12-2007 in reference No. IT/61/2007 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*B. S. Kudalkar*, Under Secretary (Labour).

Porvorim, 3rd January, 2008.

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I AT PANAJI

(Before Dilip K. Gaikwad, Presiding Officer)

Case No. IT/61/2007

The Goa Trade & Commercial  
Workers Union,  
Velho Building,  
Panaji, Goa.

V/s

M/s. Styrofoam Cups &  
Container's Pvt. Ltd.,  
Zuarinagar,  
Salcoale, Goa.

... Workman/Party I

... Employer/Party II

Workman/Party I is represented by Adv. Suhas Naik.

Employer/Party II not appeared.

#### AWARD

(Passed on this 6th day of December, 2007)

1. This is a reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 (hereinafter in short referred to as the said Act, 1947).

2. Facts of present reference, stated in brief, are as follows:

The Government of Goa in exercise of powers conferred on it by Section 10(1)(c) of the said Act, 1947, under order dated 22-8-2006, has referred to the Labour Court II following dispute for adjudication:

(1) Whether the action of the management of M/s. Styrofoam Cups and Container's Pvt. Ltd., Zuarinagar, Sancoale-Goa in refusing employment to Shri Sanjeev Mishra, Helper, with effect from 12-12-2005 is legal and justified ?

(2) If not, to what relief the workman is entitled ?

3. In response to notices Party I put appearance. The Party II though it is served with notice sent by Registered post A.D. did not appear postal acknowledgement receipt received from Party II is on record.

4. The Party I did not file claim statement.

5. Learned advocate of Party I filed pursis at Exb. 5 stating that both parties have amicably settled the dispute under settlement dated 8-8-2007 as per provisions contained in Section 2(p) of the said Act, 1947 and that the Party I does not wish to proceed further with this reference. He requested to pass appropriate order accordingly.

6. Xerox copy of terms of settlement is produced along with application Exb. 4. The Party II was not present.

The terms of settlement could not be verified because of absence of this party.

7. In view of the pursis (Exb. 5) and since the parties to the dispute have amicably settled the dispute as stated earlier, I hold that the dispute under the reference does not survive. With this, I proceed to adjudicate the dispute by passing order as follows:

#### ORDER

1. It is hereby adjudicated that the dispute "Whether the action of the management of M/s. Styrofoam Cups and Container's Pvt. Ltd., Zuarinagar, Sancoale-Goa in refusing employment to Shri Sanjeev Mishra, Helper, with effect from 12-12-2005, is legal and justified", does not survive.
2. It is hereby adjudicated that the dispute "to what relief the Party I/Workman is entitled", does not survive.
3. No order as to costs.
4. The Award be submitted to the Government of Goa as per provisions contained in Section 15 of the Industrial Disputes Act, 1947.

Sd/-  
Dilip K. Gaikwad,  
Presiding Officer,  
Industrial Tribunal-  
cum-Labour Court-I.

#### Notification

No. 28/18/2007-LAB/19

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa, on 05-12-2007 in reference No. IT/29/2007 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*B. S. Kudalkar*, Under Secretary (Labour).

Porvorim, 3rd January, 2008.

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR-  
COURT-I AT PANAJI

(Before Dilip K. Gaikwad, Presiding Officer)

Case No. IT/29/2007

Krishna D. Naik,  
Gaunsawada, H. No. 46,  
Mapusa, Bardez-Goa.

... Workman/Party I

V/s

M/s. Standard Steel Yard,  
M. R. Fernandes Mansion,  
Near Swiss Chapel,  
Mapusa, Bardez-Goa.

... Employer/Party II

Party I/Employee – in person.

Party II/Employer – in person.

#### AWARD

(Passed on this 5th day of December, 2007)

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter in short referred to as the said Act, 1947).

1. Facts of present reference, stated in brief, are as follows:

The Government of Goa in exercise of powers conferred on it by Section 10(1)(d) of the said Act, 1947, under order dated 14-5-2007 has referred to this Industrial Tribunal following dispute for adjudication:

1. Whether the action of the management of M/s. Standard Steel Yard, Mapusa Goa, in terminating the services of Shri Krishna D. Naik, Driver, w.e.f. 25-9-2004, is legal and justified ?
2. If not, to what relief the workmen is entitled ?

2. In response to notices, both parties put their appearance in this Industrial Tribunal. The Party I did not file claim statement as a result there is also no written statement on behalf of Party II.

3. Proceedings before the Industrial Tribunal are judicial in nature even though the Indian Evidence Act does not apply, but the principle underlining the said Act is applicable to such proceedings. It is well settled that, if a party challenges a legality of an order, burden lies upon him to prove illegality of the order and if no evidence is produced, the party invoking jurisdiction of the Tribunal must fail. In the instant case, the State Government of Goa has referred the dispute to this Industrial Tribunal which reveals to be at the instance of the aggrieved workman. Consequently, the burden lies upon the workman to set out the grounds challenging validity of termination order and to prove that the termination order is illegal and unjustified. The Party I workman, as stated earlier, neither filed claim statement nor produced evidence with the result that there is no material before this Industrial Tribunal for recording a finding that the order of termination passed by the Party II/employer is illegal or unjustified.

4. As a result of the above discussion, it will have to be held that the order of termination passed by the Party II employer against the Party I-Workman is legal and justified and that the Party I-Workman is not entitled

to any relief. With this, I proceed to adjudicate the dispute by passing order as follows:

**ORDER**

1. It is hereby adjudicated that the action of the management of M/s. Standard Steel Yard, Mapusa Goa, in terminating the services of Shri Krishna D. Naik, Driver, w.e.f. 25-9-2004, is legal and justified.
2. It is hereby adjudicated that the Party I-Workman is not entitled to any relief.
3. No order as to costs.
4. The Award be submitted to the Government of Goa as per provisions contained in Section 15 of the Industrial Disputes Act, 1947.

Sd/-  
Dilip K. Gaikwad,  
Presiding Officer,  
Industrial Tribunal-  
cum-Labour Court-I.

**Notification**

No. 28/18/2007-LAB/19

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa, on 12-12-2007 in reference No. IT/23/2004 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

*B. S. Kudalkar*, Under Secretary (Labour).

Porvorim, 3rd January, 2008.

**IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I AT PANAJI**

(Before Dilip K. Gaikwad, Presiding Officer)

Case No. IT/23/2004

Workmen represented by  
the Swan Distilleries Workers  
Welfare Union,  
H. No. 552, Antoi, Guirdolim,  
Chandor, Goa.

... Workmen/Party I

V/s

M/s. Swan Distilleries Pvt. Ltd.,  
St. Jose De Areal,  
Salcete, Goa.

... Employer/Party II

Party I/Workmen are represented by A. V. Nadkarni.

Party II/Employer is represented by Adv. M. S. Bandodkar.

**AWARD**

(Passed on this 12th day of December, 2007)

1. This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter in short referred to as the said Act, 1947).

2. Facts giving rise to the present reference, stated in brief, are as follows:

The Government of Goa in exercise of powers conferred on it by Section 10(1)(d) of the said Act, 1947, under order dated 27-7-2004, has referred to this Industrial Tribunal following dispute for adjudication:

“(1) Whether the action of the management of M/s. Swan Distilleries Private Limited, St. Jose de Areal, Salcete, Goa in terminating the services of the following workmen by closing down the industrial establishment with effect from 1-11-2003, is legal and justified ?

- |                               |            |
|-------------------------------|------------|
| 1) Mr. Joaquim Cruz           | ... Helper |
| 2) Aleeixo Carvelho           | ... Helper |
| 3) Selvyn Barbosa             | ... Helper |
| 4) Mr. Jose Cardoz            | ... Helper |
| 5) Francisco Fernandes        | ... Helper |
| 6) Domnic Fernandes           | ... Helper |
| 7) Mr. Victor Carvelho        | ... Helper |
| 8) Anthony Mascarenhas        | ... Helper |
| 9) Neville D'Souza            | ... Helper |
| 10) Mr. Cusstodio Duart       | ... Helper |
| 11) Luis Pereira              | ... Helper |
| 12) Albano Rocha              | ... Helper |
| 13) Mr. Jose Mascarenhas      | ... Helper |
| 14) Caitano Silva             | ... Helper |
| 15) Salvador Matos            | ... Helper |
| 16) Mr. Luis Aleixo Fernandes | ... Helper |
| 17) Manual Furtado            | ... Helper |
| 18) Laximikant Mokatkar       | ... Helper |
| 19) Mr. Domingos Gomindes     | ... Helper |
| 20) Diago Rocha               | ... Helper |
| 21) Antonio J. Gomes          | ... Helper |
| 22) Mr. Basilo Dias           | ... Helper |
| 23) Vicente Kamat             | ... Helper |
| 24) Rafeal Castanha           | ... Helper |
| 25) Mr. Inacio Cardoz         | ... Helper |
| 26) Leonad Pereira            | ... Helper |
| 27) Caitaninho Estibeirol     | ... Helper |
| 28) Mr. Xavier Andrew         | ... Helper |
| 29) Remy Lima                 | ... Helper |
| 30) Roland Moses              | ... Helper |
| 31) Mr. Antonio Gomes         | ... Helper |
| 32) Inacio Fernandes          | ... Helper |
| 33) Thomas Gomendes           | ... Helper |
| 34) Mr. Mathew Costa          | ... Helper |

35) Mahadev Vithoba Gaonkar ... Helper  
 36) Mario Valadares ... Helper  
 37) Mr. Ricardo Carvelho ... Helper  
 38) Govind Naik ... Helper  
 39) John Valadares ... Helper  
 40) Mr. Nicolau Costa ... Helper  
 41) Andrew D'Costa ... Helper  
 42) Vinod P. Kadam ... Helper  
 43) Mr. Mariano Castainhas ... Helper  
 44) Anthony Dias ... Helper

19) Mr. Domingos Gomindes ... Helper  
 20) Diago Rocha ... Helper  
 21) Antonio J. Gomes ... Helper  
 22) Mr. Basilo Dias ... Helper  
 23) Vicente Kamat ... Helper  
 24) Rafeal Castanha ... Helper  
 25) Mr. Inacio Cardoz ... Helper  
 26) Leonad Pereira ... Helper  
 27) Caitaninho Estibeirol ... Helper  
 28) Mr. Xavier Andrew ... Helper  
 29) Remy Lima ... Helper  
 30) Roland Moses ... Helper  
 31) Mr. Antonio Gomes ... Helper  
 32) Inacio Fernandes ... Helper  
 33) Thomas Gomendes ... Helper  
 34) Mr. Mathew Costa ... Helper  
 35) Mahadev Vithoba Gaonkar ... Helper  
 36) Mario Valadares ... Helper  
 37) Mr. Ricardo Carvelho ... Helper  
 38) Govind Naik ... Helper  
 39) John Valadares ... Helper  
 40) Mr. Nicolau Costa ... Helper  
 41) Andrew D'Costa ... Helper  
 42) Vinod P. Kadam ... Helper  
 43) Mr. Mariano Castainhas ... Helper  
 44) Anthony Dias ... Helper

(2) If not, to what relief the workmen are entitled ?

3. In response to notices both parties put their appearance in this Industrial Tribunal. Today, representative of the Party I and learned advocate of Party II filed joint pursis (Exb. 5) stating that the dispute is settled long back by and between the parties. Therefore, representative of the Party I and learned advocate of the Party II under this pursis prayed for passing no dispute award.

4. Since the dispute is settled by and between the parties I hold that the dispute does not survive. It is needless to pass no dispute award. With this, I proceed to adjudicate the dispute by passing order as follows:—

#### ORDER

1. It is hereby adjudicated that the dispute whether the action of the management of M/s. Swan Distilleries Private Limited, St. Jose de Areal, Salcete, Goa in terminating the services of the following workmen by closing down the industrial establishment with effect from 1-11-2003, is legal and justified, does not survive.

1) Mr. Joaquim Cruz ... Helper  
 2) Aleixo Carvelho ... Helper  
 3) Selvyn Barbosa ... Helper  
 4) Mr. Jose Cardoz ... Helper  
 5) Francisco Fernandes ... Helper  
 6) Domnic Fernandes ... Helper  
 7) Mr. Victor Carvelho ... Helper  
 8) Anthony Mascarenhas ... Helper  
 9) Neville D'Souza ... Helper  
 10) Mr. Cusstodio Duarte ... Helper  
 11) Luis Pereira ... Helper  
 12) Albano Rocha ... Helper  
 13) Mr. Jose Mascarenhas ... Helper  
 14) Caitano Silva ... Helper  
 15) Salvador Matos ... Helper  
 16) Mr. Luis Aleixo Fernandes ... Helper  
 17) Manual Furtado ... Helper  
 18) Laximikant Mokatkarr ... Helper

2. It is hereby adjudicated that the dispute to what relief the workmen are entitled, does not survive.
3. No order as to costs.
4. The Award be submitted to the Government of Goa as per provisions contained in Section 15 of the Industrial Disputes Act, 1947.

Sd/-  
 Dilip K. Gaikwad,  
 Presiding Officer,  
 Industrial Tribunal-  
 -cum-Labour Court-I.

#### Notification

No. 28/18/2007-LAB/19

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa, on 28-11-2007 in reference No. IT/51/2001 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 3rd January, 2008.

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I AT PANAJI

(Before Dilip K. Gaikwad, Presiding Officer)

Case No. IT/51/2001

Sanjay D. Kerkar,  
H. No. 44, Jakni Waddo,  
Parra, Bardez Goa.

... Workman/Party I

V/s

M/s. Sharloc Automobiles,  
Ghandi Chowk, Mapusa,  
Bardez Goa.

... Employer/Party II

Party I/Workman is represented by Suhas Naik.

Party II/Employer is represented by Adv. D. P. Bhise & Adv.  
Kishore Dubey.

AWARD

(Passed on this 28th day of November, 2007)

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 (hereinafter in short referred to as the said Act, 1947).

1. Facts giving rise to the present reference, stated in brief, are as follows:

The Government of Goa in exercise of powers conferred on it by Section 10(1)(d) of the said Act, 1947, under order dated 21-8-2001, has referred to this Industrial Tribunal following dispute for adjudication:

“(1) Whether the action of the management of M/s. Sharloc Automobiles, Mapusa, Bardez Goa, in terminating the services of Shri Sanjay D. Kerkar, with effect from 30-9-2000, is legal and justified ?

(2) If not, to what relief the workmen are entitled ?”

2. In response to notices, both parties put their appearance in this Industrial Tribunal. The Party I presented his claim statement on 20-11-2001 at Exb. 5. It appears from claim statement that the Party II is carrying on business of repairs and of servicing automobiles. Party I was appointed in establishment of Party II w.e.f. 1-3-1994. He was doing work of writing daily cash reports and of maintaining cash bills. The Party II terminated his service w.e.f. 30-9-2000 without giving him opportunity of being heard, without holding departmental inquiry and without compliance with mandatory provisions contained in Sec. 25-F of the said Act, 1947 termination of his service is illegal and unjustified. He raised a dispute before the Assistant Labour Commissioner, Mapusa. Conciliation proceeding held by the Asst. Labour Commissioner ended in failure.

Therefore, the Government of Goa has referred the dispute for adjudication to this Industrial Tribunal as stated earlier.

3. The Party I by presenting claim statement requested to hold that, action of management of Party II in terminating his service w.e.f. 30-9-2000 is illegal and unjustified, and to direct the Party II to reinstate him in service with full back wages and with continuity of service.

4. The Party II filed its written statement on 5-2-2002 at Exb. 6 and thereby resisted claim made out by Party I in his claim statement. It appears from written statement that the Party I was appointed in establishment of the Party II as Assistant Supervisor. The Party I left the services as he wanted to run a Bar and Restaurant. The Party I had availed loan of Rs. 30,000/- from Society to purchase motorcycle. The Party II has made repayment of Rs. 17,920/- out of the loan. By adjusting amount of the repayment the Party II has paid entire legal dues to the Party I when the Party I orally resigned from the service. The Party I is not entitled to any of the reliefs as prayed in the claim statement.

5. The Party I submitted his rejoinder on 3-7-2002 at Exb. 7. He has denied in rejoinder all contentions which are raised by the Party II in its written statement (Exb. 6) and which are adverse to his interest. It is needless to reproduce the denials.

6. On basis of pleadings, the then learned Presiding Officer framed issues on 24-7-2002 at Exb. 8. The issues are as follows:

1. Whether the Party I proves that the Party II terminated his services w.e.f. 30-9-2000 ?
2. Whether the Party I proves that the Party II did not comply with the provisions of Sec. 25-F of the I. D. Act, 1947 at the time of termination of his service ?
3. Whether the Party I proves that termination of his service by the Party II w.e.f. 30-9-2000 is illegal and unjustified ?
4. Whether the Party II proves that the Party I resigned from service by oral resignation ?
5. Whether the Party I is entitled to any relief ?
6. What Award ?

7. My findings on the above issues are as follows:

1. In affirmative
2. In affirmative
3. In affirmative

4. In negative
5. Entitled to reinstatement with full back wages and with continuity in the service.
6. As per final order.

## REASONS

8. *Issue Nos. 1 to 3:* For the sake of convenience and to avoid repetition, I am deciding these two issues together. Evidence of the Party I is at Exb. 11. It appears from his evidence that he was appointed in workshop/establishment of Party II w.e.f. 15-3-1994. Xerox copy of his appointment letter is at Exb. W-1. The letter further discloses that his appointment was as Assistant Supervisor. The Party II terminated his service w.e.f. 30-9-2000. There is no documentary evidence in the form of termination letter/order. After termination of service, he raised dispute before the Asstt. Labour Commissioner, Government of Goa, with a demand of reinstatement in the service under letter dated 12-2-2001. Carbon copy of the letter is at Exb. W-3. There is one more copy of letter dated 19-4-2001 at Exb. W-4 which is sent by him to the Asst. Labour Commissioner. His evidence supported by copy of this letter makes it clear that the Party II terminated his service w.e.f. 30-9-2000. His evidence further shows that the Party II terminated his service without giving one month's notice in writing or without making payment in lieu of such notice, of wages for the period of notice, and also without making payment of retrenchment compensation. Therefore, termination of his service is illegal and unjustified.

9. The Party I is not cross examined by or behalf of Party II. Evidence of Party I remained unchallenged. The Party II did not lead evidence in rebuttal. Under these circumstances, evidence of the Party I will have to be accepted as it is.

10. Sec. 2(oo) of the said Act, 1947, lays down that:

*["retrenchment" means the termination by the employer of the service of a workman for any reason whatsoever otherwise than as a punishment inflicted by way of disciplinary action but does not include—*

- a) *voluntary retirement of the workman; or*
- b) *retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or*
- bb) *termination of the service of the workman as a result of the non renewal of the contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or*

*(c) termination of the service of a workman on the ground of continued ill-health.]*

11. Decisions given the Hon'ble Supreme Court in case of *Mohanlal v/s Management of M/s. Bharat Electronics Ltd.*, reported in AIR 1981 SC 1253 and in case of *Gammon India Ltd., v/s Niranjana Dass* reported in (1984) 1 SCC 509 and which are placed before me by learned advocate of Party I speak in one chorus that the termination which is not covered by any of the exceptions in Sec. 2(oo) amounts to retrenchment and that such termination which is without making compliance with prerequisites of Sec. 25-F of the said Act, 1947, is *ab initio void*.

12. The Party I in the present case was in continuous service from 15-3-1994 till the date of termination of his service i.e. till 30-9-2000 which is apparently for not less than one year. Termination of his service does not fall within any of the exceptions, or to be precise, excluded categories. Relying upon decisions given by the Hon'ble Supreme Court in the reported cases referred to above, I hold that termination of service of Party I by the Party II w.e.f. 30-9-2000 is illegal and unjustified. I agree with argument advanced in this regard by learned advocate of Party I. In view of this position and above discussion, I answer the issues in affirmative.

13. *Issue No. 4:* The Party II did not lead evidence to prove that the Party I orally resigned from service. It is proved that there is termination of service of Party I by the Party II. I, therefore, answer the issue in negative.

14. *Issue No. 5:* As per provisions contained in Section 11-A of the said Act, 1947, if the Labour Court, Tribunal or National Tribunal as the case may be is satisfied that the order of discharge or dismissal was not justified, it may, by its Award set aside the order of discharge or dismissal and direct reinstatement of the workman on such terms and conditions, if any, as it thinks fit or give such other relief to the workman including the Award of any lesser punishment in lieu of discharge, or dismissal as the circumstances of the case may require.

15. In case, if the termination of service of workman is proved to be illegal and unjustified, normal rule or practice is to reinstate the workman with full back wages and with continuity in service. There is no evidence on behalf of Party II to hold that there should be departure from this normal rule and practice. There is also no evidence to hold that after termination of service of Party I, he is gainfully employed. The Hon'ble Supreme Court in the reported case of *Gammon India Ltd.*, alluded *Supra* after holding termination of service as *ab initio void* pleased to order continuance in service with full back wages alongwith all benefits

and interest etc. Relying upon this decision and considering circumstances of the present case, I hold that it will be just and proper if the reinstatement of Party I in the service with full back wages and continuity in service is ordered. I, therefore, hold that the Party I is entitled to the reliefs of reinstatement in service with full back wages and with continuity in service. I answer the issue accordingly.

As a result of findings given to issues No. 3 and 5, I proceed to adjudicate the dispute by passing order as follows:

ORDER

1. It is hereby adjudicated that the action of the management of M/s. Sharloc Automobiles, Mapusa, Bardez Goa, Party (II) in terminating the services of Shri Sanjay D. Kerkar (Party I) with effect from 30-9-2000, is illegal and unjustified.
2. Termination of service of Party I by management of the Party II is set aside.
3. It is hereby adjudicated that the Party I/Workman is entitled to reinstatement in establishment of the Party II with full back wages and with continuity in services.
4. No order as to costs.
5. The Award be submitted to the Government of Goa as per provisions contained in Section 15 of the Industrial Disputes Act, 1947.

Sd/-  
Dilip K. Gaikwad,  
Presiding Officer,  
Industrial Tribunal-  
-cum-Labour Court-I.

Notification

No. 28/01/2008-LAB/71

The following Award passed by the Industrial Tribunal of Goa, at Panaji-Goa, on 01-01-2008 in reference No. IT/90/2007 is hereby published as required by Section 17 of the Industrial Disputes Act, 1947 (Central Act 14 of 1947).

By order and in the name of the Governor of Goa.

B. S. Kudalkar, Under Secretary (Labour).

Porvorim, 10th January, 2008.

IN THE INDUSTRIAL TRIBUNAL-CUM-LABOUR  
COURT-I AT PANAJI

(Before Dilip K. Gaikwad, Presiding Officer)

Case No. IT/90/2007

Ms. Shreedevi G. Naik,  
Naikawada,  
Mandrem, Goa.

... Workman/Party I

V/s

M/s. Indiabulls Credit Services Ltd.,  
Casa Alvaro Building,  
Opp. Clock Tower,  
Patto,  
Panaji, Goa.

... Employer/Party II

Party I/Workman in person.

Party II/Employer in person.

AWARD

(Passed on this 1st day of January, 2008)

1. This is a reference under Section 10(1)(c) of the Industrial Disputes Act, 1947 (hereinafter in short referred to as the said Act, 1947).

2. Facts of the reference, stated in brief, are as follows:

The Government of Goa in exercise of powers conferred on it by Section 10(1)(c) of the said Act, 1947, under order dated 5-2-2007, has referred to this Industrial Tribunal following dispute for adjudication:

“(1) Whether the action of the management of M/s. Indiabulls Credit Services Limited, Panaji in terminating the services of Ms. Shreedevi G. Naik, Executive TVR (Tele Verification Report), with effect from 5-11-2005 is legal and justified ?

(2) If not, to what relief the workperson is entitled ?”

2. In response to notices both parties put their appearance. The Party I did not file claim statement as a result there is no written statement by or on behalf of the Party II.

3. The Hon'ble High Court of Allahabad held in case between V. K. Raj Industries and Labour Court(I) and others that—

*“The proceedings before the Industrial Court are judicial in nature even though the Indian Evidence Act does not apply to the proceedings but the principle underlying the said Act is applicable to the proceedings before the Industrial Court. It is well settled that if a party challenges the legality of an order, the burden lies upon him to prove illegality of the order and if no evidence is*

*produced the party invoking jurisdiction of the Court must fail. In the instant case in all the three cases the State Government had referred the dispute to the Labour Court at the instance of the aggrieved workman. Consequently, the burden lay on the workman to set out the grounds challenging the validity of the termination order and to prove that the termination order was illegal. The workman did not appear nor they produced evidence, with the result that there was no material before the Labour Court for recording a finding that the order of termination passed by the employer was unjustified or illegal. In the absence of any evidence, the Labour Court had no jurisdiction to hold the order of termination illegal. The Labour Court committed manifest error of law in placing the burden of proof on the employer."*

4. In the present case also the Party I/Workman neither filed claim statement nor produced evidence with the result that there is no material before this Court for recording finding that the order of termination passed by the employer, that is, by the Party II with effect from 5-11-2005 is illegal or unjustified. Therefore, and relying upon decisions from the reported case,

alluded supra, it will have to be held that termination of services of the Party I is legal and justified and that she is not entitled to any relief. With this, I proceed to adjudicate the dispute by passing order as follows:

#### ORDER

1. It is hereby adjudicated that the action of the management of M/s. Indiabulls Credit Services Limited, Panaji in terminating the services of Ms. Shreedevi G. Naik, Executive TVR (Tele Verification Report), with effect from 5-11-2005 is legal and justified.
2. It is hereby adjudicated that the workperson is not entitled to any relief.
3. No order as to costs.
4. The Award be submitted to the Government of Goa as per provisions contained in Section 15 of the Industrial Disputes Act, 1947.

Sd/-  
Dilip K. Gaikwad,  
Presiding Officer,  
Industrial Tribunal-  
-cum-Labour Court-I.